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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

JOHNSON, STEPHEN

ART UNIT

PAPER NUMBER

3641

DATE MAILED: 11/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/759,002

Applicant(s)

SCHMITT, EDWARD J.

Examiner

Stephen M. Johnson

Art Unit

3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 18-29 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3641

1. Applicant's election without traverse of a funnel as illustrated in figs. 1-3 in the replies filed on 1/6/2005 and 7/18/2005 is acknowledged.

Claims 18-29 read on the elected species and an action on these claims follows.

2. Claims 18- 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 18 and 26, applicant claims "a decreasing size" and "an increasing size" without specify what particulars of the size are intended to be decreasing and/or increasing. Is the length, width, height, diameter, and/or volume intended to increase? Please clarify.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 18-21 and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanson (489) in view of either Ashe (362) or Seavy (080).

Hanson (489) discloses a container comprising:

- | | |
|---|---------------|
| a) a pan with flat bottom and sidewalls; | 5 |
| b) a funnel with funnel portion and spout portion; | 6, 7 |
| c) the funnel portion having decreasing diameter; and | 6, see fig. 3 |
| d) a handle portion. | 8 |

Hanson applies as recited above. However, undisclosed is a spout portion of increasing

Art Unit: 3641

diameter while extending away from the funnel portion. Ashe (fig. 2) and Seavy (fig. 2) each teach a spout portion of increasing diameter while extending away from the funnel portion.

Applicant is substituting one spout portion for another as explicitly encouraged by the secondary references (compare figs. 1 and 2 of Ashe and compare figs. 1 and 2 of Seavy). It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Ashe or Seavy to the Hanson container and have a container with a different type of spout portion.

5. Claims 22 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanson (489) in view of either Ashe (362) or Seavy (080) as applied to claims 18-21 and 25-26 above, and further in view of Creighton (544).

Hanson (489), Ashe (362), and Seavy (080) apply as previously recited. However, undisclosed are handles located on either side of the container. Creighton teaches handles located on either side of the container 4, 6. Applicant is substituting one handle location for another in an analogous art setting. It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Creighton to the Hanson, Ashe, and Seavy container and have a container with handles located on either side.

6. Claims 23 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanson (489) in view of either Ashe (362) or Seavy (080) as applied to claims 18-21 and 25-26 above, and further in view of Manem et al. (501).

Hanson (489), Ashe (362), and Seavy (080) apply as previously recited. However, undisclosed is a container composed of plastic. Manem et al. teach a container composed of plastic (see col. 2, lines 1-3). Applicant is substituting one container material type for another in

Art Unit: 3641

an analogous art setting as explicitly encouraged by the secondary reference (see col. 2, lines 1-3 of Manem et al.). It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Manem et al. to the Hanson, Ashe, and Seavy container and have a plastic container.

7. Claims 24 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanson (489) in view of either Ashe (362) or Seavy (080) as applied to claims 18-21 and 25-26 above, and further in view of Lucero et al. (201).

Hanson (489), Ashe (362), and Seavy (080) apply as previously recited. However, undisclosed is a container composed of metal. Lucero et al. teach a container composed of metal (see col. 3, lines 1-2). Applicant is substituting one container material type for another in an analogous art setting as explicitly encouraged by the secondary reference (see col. 3, lines 1-4 of Lucero et al.). It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Lucero et al. to the Hanson, Ashe, and Seavy container and have a metal container.

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 18-21 and 25-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Krstovic (824).

Krstovic (824) discloses a container comprising:

a) a pan with flat bottom and sidewalls;

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Art Unit: 3641

- | | |
|---|------------------------------|
| b) a funnel with funnel portion and spout portion; | 14, E, F, D (funnel portion) |
| c) the funnel portion having decreasing diameter; and | 14a |
| d) the spout portion having increasing size; | E or D (funnel portion) |
| d) a handle portion. | 15 |

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 571-272-6877 and whose e-mail address is (Stephen.Johnson@uspto.gov). The examiner can normally be reached on Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The Central FAX phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 800-786-9199.



STEPHEN M. JOHNSON
PRIMARY EXAMINER

Stephen M. Johnson
Primary Examiner
Art Unit 3641

SMJ
November 2, 2006